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The CHAIRMAN (Mr. Davis). Before proceeding to the regular order, I am authorized by the executive committee to announce that at this stage of the meeting we will hear a very brief report from Dr. Hamilton Wright, the American representative of the Opium Commission, which has been doing so much work in the East. I have the pleasure of presenting Dr. Wright.

REPORT OF DR. HAMILTON WRIGHT,
OF WASHINGTON, D. C.

Mr. Chairman, and Members of the Society: I was asked, rather unexpectedly, by Dr. Scott to address you informally on the organization of the International Opium Commission which has just broken up at Shanghai, and to outline the results of the conference so far as they have brought forward the settlement of the opium question.

The conference as originally called for by our State Department was to have been a conference with full powers. At the suggestion of Great Britain, however, that idea was modified somewhat, and it was decided that there should be first a commission called together to study the question before any of the existing agreements under which the opium traffic is conducted would be modified. It was expected that the commission would thoroughly study the opium question and make recommendations for its final settlement. In accordance with this agreement between the powers represented, the commission met at Shanghai on the first of February and organized under the rules in regard to commissions as adopted at the last Hague Conference.

There were twelve delegations present, representing the great, and some of the minor, powers. Great Britain, France, Germany, Austria-Hungary, Italy, Russia, and Japan all had very representative delegates; so also the Netherlands, China, Persia, and Siam. All of these nations have treaties with China governing the opium traffic except Persia and Siam, and it was one of the features of the conference that China was willing to submit her opium problem to two countries with which she has no treaty relations.

The American delegation went to the conference hampered in no

way by instructions from the State Department. It was expected that the American delegation would take the lead, and we were simply instructed to study and bring the opium question up to date, and either to have adopted a unanimous report as to the best means for the solution of the problem, or, in the event of disagreement, to so report to the Department, and I may say in regard to this matter of instructions, that ours was the only delegation present not hampered by instructions that made a constant reference to foreign offices necessary.

Of course the United States has comparatively little material interest in the opium question, although, as developed by our commission, a large moral interest. Our delegation was therefore placed in rather an embarrassing position in that we had to take the lead and get results and at the same time take into consideration the immense material interests that Great Britain has at stake in the Indian opium traffic, and the opium farms of the Strait Settlements and Hongkong, and that France has at stake in French Indo-China, Japan in Formosa, and the Netherlands government in its East Indian possessions.

Any success that the American delegation achieved at the conference was due to the fact that we stood on a few fundamental principles. First, we believed in prohibition for ourselves in the use of opium except for medical purposes, and for the principle of prohibition for all other peoples as soon as it could be accomplished. We therefore directly recognized the difficulties that other states would have in enforcing immediate prohibition. Then we made it perfectly plain that we were there to accomplish some definite result. I may say that on nearly every side of the opium question we were very frankly met by the British delegation, who, with Japan, France, and ourselves had the main work of the commission in hand.

All of the delegations looked to the American delegation for a lead as to the programme, and being alphabetically the first, as well as leaders in the commission, the American delegation was the first to introduce a programme. This was composed of some nine or ten resolutions, most of which were ultimately passed unanimously. The American delegation, by the way, laid it down as a principle, that

they would not urge any resolution on the commission or any conclusion on the opium question unless there was a possibility of passing it by an overwhelming majority, and I am glad to say that we finally succeeded in passing *nem. con.* five of our own resolutions and two submitted by the British delegation and two submitted by the Chinese delegation. There was the usual opposition and the usual formal and informal discussion before we got our resolutions through, and there is no doubt that the most important resolutions were those submitted by the American delegation. I have them here and can read them off rapidly.

The first one in the official record was introduced by the British delegation. The official arrangement of the resolutions is as they were reported to the various governments and not according to the time of introduction or passage.

The first resolution was an expression of sympathy with China in her great effort to suppress the opium evil. It was thought better that the British delegation should introduce a resolution of that kind.

The second resolution was to the effect that in view of the action taken by the government of China in suppressing the practice of opium smoking and of that taken by other governments to the same end, the International Opium Commission recommends that each delegation concerned move its own government to take measures for the gradual suppression of the practice of opium smoking in its own territories and possessions, with due regard to the varying circumstances of each country concerned. This resolution was practically a condemnation of the habit of opium smoking. It acknowledges our position in regard to immediate prohibition, but recognizes that other countries may have to more gradually suppress the habit than we have attempted to do.

The third resolution was a frank recognition that opium in any form otherwise than for medical purposes is held by almost every participating country to be a matter for prohibition or for gradual regulation, and urges upon the governments concerned the desirability of the reexamination of their systems of regulation in the light of the experience of other countries in dealing with the same problem. In principle this resolution relegates opium to its proper

place in medicine, but recognizes that in countries like India it is used very freely as a household remedy, and that Indian native medical practice is on a low plane and that it will take some time to educate the people up to a proper view of the use of opium.

Resolution four was one which the American delegation considered of the utmost importance. First, it raised a new question of international law, and second, it applied very particularly to the United States in view of our prohibitory legislation in the Philippines and the anti-opium act that went into effect on the first of April. The resolution reads as follows:

That the International Opium Commission finds that each Government represented has strict laws which are aimed directly or indirectly to prevent the smuggling of opium, its alkaloids, derivatives, or preparations into their respective territories. In the judgment of the International Opium Commission it is also the duty of all countries to adopt reasonable measures to prevent at ports of departure the shipment of opium, its alkaloids, derivatives, or preparations to any country which prohibits the entry of any opium, its alkaloids, derivatives, or preparations.

This resolution we had a great deal of difficulty in getting through, but we strongly urged upon the commission the fact that we had in our national pure food laws the same penalties on the shipment of deleterious articles to foreign countries as on the shipment of these same articles in our interstate commerce. I stated that we had done this not as the result of pressure from foreign ports, but as a matter of international courtesy, and that the American delegation felt that it was time that the principle of "do unto others as you would be done by" was recognized in regard to such matters and especially in regard to the opium traffic. It was further urged that considering the fact that we had a prohibitory law in the Philippines and the United States, that to make it effective would add largely to the cost of our preventive service and that we must have the cooperation of the opium producing countries to make our laws effective. After a considerable struggle, both in formal and informal discussions, the British delegation, which led the opposition, finally accepted this resolution and it was adopted unanimously.

Resolution five was introduced by the British delegation. It is known as the "morphine resolution." Our delegation had drawn up a very strict resolution in regard to morphine. On the disclosure of ours the British modeled one on it but restricted its operations to China. On introducing the American resolutions, I offered to withdraw our resolution on the morphine question in favor of the British if they would make it of general application. This they did, and the morphine resolution was passed unanimously. It reads as follows:

The International Opium Commission finds that the unrestricted manufacture, as well as distribution, of morphine is already considered a grave danger, and that the morphine habit is spreading. The International Opium Commission therefore desires to urge strongly on all Governments that it is highly important that drastic measures should be taken by each Government in its own territories and possessions to control the manufacture as well as the distribution of this drug.

Resolution six is not important. It simply refers back the scientific question to the governments concerned.

Resolution seven was introduced by the Chinese, and urges in all governments having possessions, concessions, or settlements in China which have not yet taken effective action toward the closing of opium dives therein to take steps to that end, as soon as they may deem it possible, on the lines already adopted by several governments.

Resolution eight was also introduced by the Chinese, and strongly recommends that each delegation move its government to enter into negotiations with China with a view to effective measures being taken in the various foreign concessions and settlements in China for the prohibition of the trade and manufacture of such anti-opium remedies as contain opium or its derivatives.

Resolution nine was introduced by the American delegation and recommends that each delegation move its government to apply its pharmacy laws to its subjects in the consular districts, concessions, and settlements in China. This was a most important resolution so far as the Chinese are concerned, for it has become the practice since the anti-opium movement was initiated in China three years

ago for foreign druggists and chemists in the concessions and consular districts to turn out thousands of ounces of anti-opium remedies, all containing opium or morphine, so that the "cure" threatens to become worse than the disease. If the principle moved in this resolution is accepted by the governments concerned, the pharmacy laws that obtain in Europe and this country will be applied to the subjects of this and other governments in China. It would be as criminal to sell these anti-opium remedies in settlements in China as it is in this country and in Europe.

Resolutions two, four, and five were compromise resolutions between the American and the British delegations. Our three resolutions expressing these principles were drawn up in more formal language, and as there was objection to the original form on the part of the British delegation we frankly announced that we would agree to any verbal changes that they cared to make if they would accept our principles, and after an informal conference with the British delegation these three resolutions were introduced by the American delegation and carried.

These are the most important features of the International Opium Commission. It might be of interest to state further that the American delegation, although it met with some opposition, attempted, and we think successfully, to conduct this commission under the rules laid down in regard to commissions by the last Hague Conference.

The Chinese have expressed themselves as being very grateful for the action of the American government in calling this commission, and they look to us with great hope to call a conference with full powers that will place the traffic in opium under international regulation. They were greatly pleased with that side of the commission, but what pleased them as much as anything else was, as a high Chinese official stated to me, that it was the first international conference that had ever met in China and had not gone off with either a province or an indemnity.

The CHAIRMAN (Mr. Davis). We will now pass to the regular order, the topic for discussion this afternoon being, "the nature and

definition of political offense in international extradition." The discussion will be opened by J. Reuben Clark, Jr., the assistant solicitor of the Department of State.

ADDRESS OF MR. J. REUBEN CLARK, JR.,
OF WASHINGTON, D. C.

Mr. President, and Gentlemen of the Society: Notwithstanding Sir Edward Clark's declaration that "the decisions of the American judges are the best existing expositions of the duty of extradition in its relations at once to the judicial rights of nations and the general interests of the civilization of the world," there are few branches of our law which present more unsolved and difficult problems than does the law governing matters of extradition, and of these problems none are more indefinite and complex and few have received less consideration and adjudication than those which are presented for determination when a fugitive pleads to defeat surrender that the offenses with which he is charged are political.

Obviously the questions that may arise in connection with this matter may be divided roughly into two classes: *first*, those questions arising out of and affecting our international rights and obligations both under our extradition and other treaties and under the general rules of international law,—in other words, questions relating to the international aspect of extradition; *secondly*, those which have their source in the general principles of our constitutional law and concern only or chiefly the rights of civil liberty guaranteed by the constitution. Inasmuch as the text set for the present discussion seems broad enough to cover both phases of this subject, the present paper will, so far as may be, confine itself to a brief sketch dealing with certain phases of the second division named.

It is a matter worthy of note that in spite of the deep-rooted feeling of the American people against surrendering political offenders to foreign governments, the Congress appears neither to have seen fit, nor deemed it necessary to lay down any statutory rules or regulations regarding this matter, but has left the question to be dealt with by the executive and the judicial branches of the government. The